

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7508

BILL NUMBER: SB 436

NOTE PREPARED: Jan 8, 2009

BILL AMENDED:

SUBJECT: Vacant and Abandoned Property.

FIRST AUTHOR: Sen. Miller

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: The bill applies restrictions on purchasing real property at a tax sale to persons who have a fee interest, a life estate interest, or the equitable interest of a contract purchaser in a vacant or an abandoned structure subject to certain enforcement orders. The bill makes it criminal trespass, a Class A misdemeanor, for a person: (1) not having a contractual interest in property, to knowingly or intentionally enter or refuse to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is vacant or designated by a municipality or county enforcement authority to be abandoned property and subject to an abatement order; or (2) to knowingly or intentionally enter the property of another person after being denied entry by a court order when the property has been designated by a municipality or county enforcement authority to be vacant property or abandoned property subject to an abatement order.

The bill requires a court to grant a municipal corporation a continuous enforcement order that authorizes specific ongoing abatement activities on certain types of property as a part of an order enforcing an ordinance concerning a condition or use of property. The bill requires a hearing authority to grant an enforcement authority a continuous enforcement order that authorizes specific ongoing compliance and enforcement activities on certain unsafe premises as a part of an order enforcing an ordinance concerning a condition or use of the unsafe premises. The bill provides that if a second or subsequent judgment in a civil action regarding unsafe premises is entered against an owner during any two-year period, a court may order the owner to pay treble damages based on the costs of the ordered action.

The bill allows an enforcement authority to issue an order requiring the removal of an unsafe building if the: (1) general condition of the building warrants removal; or (2) building continues to require reinspection and additional abatement action after an initial abatement action was taken pursuant to notice and an order. The

bill allows an unsafe building law enforcement authority to require owners to abate conditions on certain vacant structures and abandoned structures. The bill provides that an owner of property that remains a vacant structure or an abandoned structure for at least 90 consecutive calendar days may be liable for certain fines.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Criminal Penalty-* The bill would introduce a new Class A misdemeanor that could be enhanced to a Class D felony (if on scientific property, school property or bus, or person has unrelated prior conviction).

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$69,223. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Criminal Penalty-* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Penalty Provision-* A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Civil Penalty-* The bill introduces new civil penalties that could be established by a local municipality or county. The penalty could be assessed on an owner of property on which a structure has been vacant or abandoned for at least 90 days. Maintaining the structure in a state of vacancy or abandonment past the initial 90 days could also invoke further civil penalties. The maximum penalty would be \$5,000 per structure per year.

Criminal Penalty- If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies, counties, municipality.

Information Sources: Indiana Sheriffs' Association; DOC.

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